

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 97-7731**

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FRANK GARCIA, JR.,

Petitioner - Appellant,

versus

ATTORNEY GENERAL OF THE STATE OF NORTH CARO-  
LINA; RAYMOND SMITH,

Respondents - Appellees.

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Appeal from the United States District Court for the Middle Dis-  
trict of North Carolina, at Winston-Salem. William L. Osteen, Sr.,  
District Judge. (CA-97-109-6)

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Submitted: April 16, 1998

Decided: April 30, 1998

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Before WILKINS and HAMILTON, Circuit Judges, and PHILLIPS, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Frank Garcia, Jr., Appellant Pro Se. Clarence Joe DelForge, III,  
OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA, Raleigh, North  
Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Appellant seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1997). We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court.\* Garcia v. Attorney Gen. of North Carolina, No. CA-97-109-6 (M.D.N.C. Nov. 21, 1997). To the extent Appellant seeks to raise issues in this court which were not first presented to the district court for consideration, we decline to review those issues. We further deny Appellant's motion for production of documents and for return of personal property. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

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\* While the district court did not specifically discuss Appellant's claim regarding the filing of tax forms as "new evidence" warranting habeas relief, we find this claim to be without merit for the same reasons the district court dismissed Appellant's other "new evidence" claims. See Stockton v. Virginia, 852 F.2d 740, 749 (4th Cir. 1988).